

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

VITA-MIX CORPORATION,	:	
	:	CIVIL ACTION NO.: 1:06CV2622
Plaintiff,	:	
	:	JUDGE PATRICIA A. GAUGHAN
v.	:	
	:	
BASIC HOLDING, INC., <i>et al.</i> ,	:	
	:	
Defendants.	:	

DECLARATION OF DAVID T. MOVIUS

I, David T. Movius, declare as follows:

1. I am an adult person and am competent to make this Declaration. I am an attorney for Vita-Mix Corporation (“Vita-Mix”). In this capacity, I am familiar with the above-captioned case, styled *Vita-Mix Corporation v. Basic Holding, Inc., et al.*, and I make this Declaration based upon my personal knowledge.

2. Exhibit A to the Memorandum in Support of Vita-Mix Corporation’s Motion for Summary Judgment on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses is a true and accurate copy of relevant excerpts from Vita-Mix’s Second Consolidated Discovery Requests.

3. Exhibit B to the Memorandum in Support of Vita-Mix Corporation’s Motion for Summary Judgment on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel and Failure to Mitigate Affirmative Defenses is a true and accurate copy of relevant excerpts from the transcript of the December 6, 2007 Rule 30(b)(6) deposition of Jeffrey A. Wellek.

4. Exhibit C to the Memorandum in Support of Vita-Mix Corporation’s Motion for Summary Judgment on Defendants Patent Misuse, Unclean Hands, Waiver, Laches, Estoppel

and Failure to Mitigate Affirmative Defenses is a true and accurate copy of relevant excerpts from the transcript of the Rule 30(b)(6) deposition of Thomas E. Daniels, Jr..

5. Exhibit A to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of the Report of Clarke B. Nelson.

6. Exhibit B to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of relevant excerpts from the transcript of the Rule 30(b)(6) deposition of Jeffrey A. Wellek.

7. Exhibit C to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of relevant excerpts from the transcript of the November 28, 2007 deposition of Thomas E. Daniels, Jr.

8. Exhibit D to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of Canadian Patent No. 2,091,425.

9. Exhibit E to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of a Photograph of Vita-Mix's Tamper.

10. Exhibit G to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy of the November 4, 2005 Back to Basics Blender Comparison Chart.

11. Exhibit H to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Third and Fourth Counterclaims is a true and accurate copy

of the November 4, 2005 e-mail from Brian Beesley to Robin Day, Jeff Meek, Julie Tuttle and Randy Hales.

12. Exhibit A to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of U.S. Patent No. 5,302,021.

13. Exhibit B to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of Expert Report of Thomas F. Smegal, Jr.

14. Exhibit D to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of the 1992 Declaration of John Barnard

15. Exhibit E to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of relevant excerpts from the transcript of the February 1, 2008 deposition of Thomas Smegal.

16. Exhibit F to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of relevant excerpts from the transcript of the June 5, 2007 deposition of John Barnard.

17. Exhibit G to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of relevant excerpts from the December 17, 2007 deposition of Edward Greive.

18. Exhibit H to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of the January 3, 2008 Greive Declaration.

19. Exhibit I to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of U.S. Patent No. 4,946,287.

20. Exhibit J to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of U.S. Patent No. 1,407,789.

21. Exhibit K to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of U.S. Patent No. 1,460,125.

22. Exhibit L to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of U.S. Patent No. 2,757,909.

23. Exhibit P to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' Second Counterclaim and Affirmative Defense of Inequitable Conduct is a true and accurate copy of Expert Report of Majid Rashidi, Ph.D., P.E.

24. Exhibit A to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity is a true and accurate copy of U.S. Patent No. 5,302,021.

25. Exhibit B to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent

Invalidity is a true and accurate copy of Defendant Focus Electrics, LLC's Responses to Plaintiff's First Consolidated Set of Discovery Requests.

26. Exhibit C to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity is a true and accurate copy of Defendant West Bend Housewares, LLC's Responses and Objections to Plaintiff's Second Consolidated Set of Discovery Requests.

27. Exhibit D to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity is a true and accurate copy of the Expert Report of Dr. Majid Rashidi

28. Exhibit E to the Memorandum in Support of Vita-Mix Corporation's Motion for Summary Judgment on Defendants' First Counterclaim and Affirmative Defenses of Patent Invalidity is a true and accurate copy of relevant excerpts of the transcript of the deposition of Dr. Majid Rashidi.

FURTHER DECLARANT SAYETH NAUGHT.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

February 19, 2008

/s/ David T. Movius
David T. Movius, Esq.